

October 2, 2007

Mr. Scott called the workshop session of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mrs. Nargi, Mr. Martin, Mr. Kirkpatrick, Mr. Walchuk, Mr. Scott

Members Absent: Mr. Lukasik, Mr. Taibi, Mr. Bischoff

Others Present: Atty. Mark Anderson, Rick Roseberry, Carl Hintz, Steve Bolio, Atty. Lloyd Tubman, James Mantz, John Fallone, Robert Fallone, Atty. Gary Hall, Arnold Witte, Mark Zelina, Nitia Vekaria, Chris Kotalic

Adoption of Resolutions: Cellco Partnership d/b/a Verizon Wireless: Block 1.06, Lot 3, 78 Route 173: Memorialization of Resolution #2007-005: Mrs. Nargi made a motion to memorialize the Resolution. Mr. Kirkpatrick seconded the motion.
Vote: Ayes: Mrs. Nargi, Mr. Kirkpatrick, Mr. Mazza, Mr. Martin, Mr. Scott

Schuyler: Block 17, Lot 3, 13 Driftway: Memorialization of Resolution #2007-007: Mrs. Nargi made a motion to memorialize the Resolution. Mr. Kirkpatrick seconded the motion.
Vote: Ayes: Mrs. Nargi, Mr. Kirkpatrick, Mr. Mazza, Mr. Martin, Mr. Scott

Public Hearing: Fallone Properties, LLC: "Renaissance" Block 22, Lot 34, Perryville Road: Atty. Lloyd Tubman, representing applicant, said her client was seeking Final Site Plan and Subdivision approval. Preliminary approval had been granted on June 22, 2002 and Amended Preliminary approval on October 27, 2005. The Master Plan Road bisects the property. Ms. Tubman said Engineer James Mantz and John and Robert Fallone were present. She said applicant had met with Dr. Souza and Richard Roseberry to discuss Stormwater management. Atty. Tubman said Mr. Mantz was prepared to address Technical Comments from Maser Consulting, as set forth in their letter dated September 27, 2007. Dr. Souza had not submitted a report. Ms. Tubman said her client was prepared to address Dr. Souza's concerns.

Mr. Scott asked Atty. Anderson to remind the Board the differences between a Preliminary and Final approval and what the burdens are. Mr. Anderson said he was not present during previous approvals. He was aware of the Consent Order and Stipulation of Settlement between Fallone and the Union Township Committee and Planning Board. He understands the application is largely consistent with the Settlement agreement. Atty. Anderson said there is a question about off-tract improvements and the E.I.S. Atty. Tubman has said that off-tract contributions cannot be required. Mr. Anderson said there are two aspects to that matter. One is the legal aspect and one is the factual aspect. He said the Board cannot impose off-tract contributions without finding that applicant is required to, in part or in full, because of the development. The other issue is the E.I.S.

Atty. Anderson said applicant has taken the position that the Board cannot impose what they say is a new requirement. Mr. Anderson believes applicant is correct. Atty. Tubman said applicant has agreed to build a segment of the MP Road which is in excess of RSIS standards. Ms. Tubman said it is her client's opinion that there is no off-tract impact. Mr. Kirkpatrick said when the Preliminary application had been submitted, UTEC had submitted a letter noting deficiencies of the E.I.S. Information was requested about the impact the development would have on groundwater, surface water and downstream water quality. Mr. Kirkpatrick did not believe that information had been provided. He also said UTEC prepared an Environmental Impact Checklist that summarized requirements of the Land Use Ordinance. Mr. Kirkpatrick wanted to know how the E.I.S. issue could be resolved. Atty. Anderson said there are two issues being raised. One was whether requirements UTEC felt were deficient could be opposed. Mr. Anderson said the answer was "yes". Applicant would have to comply. Atty. Anderson said the other issue concerned the Checklist and the relationship to the Land Use Ordinance. Mr. Kirkpatrick said UTEC created the checklist to clarify and summarize requirements of the Ordinance. Mr. Scott noted that UTEC serves in an advisory capacity to the Planning Board. Mr. Scott believes that unless requirements cited by UTEC are asked of applicant and are included in the Preliminary approval, the Board could not require that information for a Final. He understood applicant was not asked to provide additional information in response to UTEC's letter. Atty. Tubman said she had a letter from UTEC dated April 29, 2002. Applicant agreed to respond to the report at the Completeness Hearing even though they felt that was not a requirement. Atty. Anderson concluded that the Board was not in a position to require additional information concerning environmental impact.

Atty. Tubman asked that James Mantz be sworn. Atty. Anderson performed that duty. Mr. Mantz said he had a letter dated September 27, 2007 from Richard Roseberry. Mr. Mantz said he had two meetings with Mr. Roseberry and Dr. Souza addressing Stormwater management issues. Mr. Mantz addressed items in the September 27, 2007 letter. He had a question about obtaining road names. Mrs. Nargi said there was a road naming committee. She asked Mayor Mazza to check with Robert Everett about the issue. Mr. Mantz addressed signs. He said the proposed Plan shows two signs. One will be removed and the remaining sign will be reduced in size to comply with the Ordinance. Modifications will be made to slopes as related to handicapped parking. Mr. Mantz proposed blocking off the MP Road at the cul-de-sac. Mr. Mantz displayed Sheet 8 of 36 which shows the MP Road. Mr. Scott mentioned a potential problem for snow removal if the Road were blocked. Mr. Mantz said substantial changes had been made to the Stormwater management plan. A bio-retention system is now proposed. Mr. Mantz said he is working with Dr. Souza about groundwater recharge. Dry wells are proposed. Calculations were provided pertaining to the recharge. The issue will be worked out with Dr. Souza. Mr. Mantz said pipe sizes and drainage calculations will be provided that will be acceptable to Mr. Roseberry. Regarding lighting, Mr. Mantz said lighting has been removed from the MP Road. Other lighting issues will be addressed with Mr. Hintz.

Mr. Mantz said he believes the Environmental Impact issue has been addressed. A copy of the Sewage Disposal System Plan will be provided to Mr. Roseberry. Mr. Mantz said he would address any concerns from Mr. Roseberry. Mr. Roseberry mentioned a letter dated September 21, 2007 from Williams Gas Pipe Line. The letter sets "Requirements for Construction or Maintenance Activities" that applicant must adhere to while working near their facilities. Specifically, Drainage Basin #1 must be located outside of the easement and the emergency access drive is not allowed in the right-of-way and must be relocated. Mr. Mantz said he understands the Pipeline does not have a problem with crossing their easement. He will submit revised plans to Williams. The Wetlands Buffer on the site will not be impacted.

Mr. Hintz's letter dated September 28, 2007 was addressed. Mr. Hintz said the lighting shows sharp cutoffs for the fixtures and that prevents sky glow. The proposed street lighting is prohibited by the Ordinance. Mr. Kirkpatrick and Mrs. Nargi agreed that there was opposition to street lighting. Mr. Mantz said that lighting was removed from the MP Road; however, lighting was proposed for safety reasons within the Courtyard. Mrs. Nargi said that would require a variance. Mr. Scott asked what was approved at Preliminary. Atty. Tubman said that matter will be addressed later. She believes lighting was approved in the Courtyard at Preliminary. Mr. Mantz said bollard lighting was proposed along the MP Road to the Clubhouse. Mr. Mantz said the Settlement Agreement permitted street lighting. Mrs. Nargi asked for clarification on the matter. Mr. Kirkpatrick recalled that bollard style lighting was to have been provided, with canopy type trees that would preclude glow. Mr. Mantz said the lighting proposed was on an eight-foot pole. Mr. Kirkpatrick asked if the level of lighting could be provided with bollard style lighting and, if so, would applicant be willing to provide that style. Mr. Mantz said the consensus was that applicant would reduce lighting, would like to cover parking areas for safety reasons and bollard lighting would be provided along with walkways. Mr. Mantz said applicant would be willing to work with Mr. Hintz. That would be a condition of an approval.

Atty. Tubman said she had nothing more. Mr. Kirkpatrick asked about the change in the Stormwater management plan. Mr. Mantz provided details of the changes. Ms. Tubman explained that applicant had redesigned the Plan to comply with State regulations. Dr. Souza has asked for a further amendment because of groundwater conditions.

Mr. Scott indicated applicant would be looking for Final Site Plan approval, subject to obtaining street names, compliance with Messrs. Roseberry and Hintz's reports, resolution of issues with Williams Pipe Line, meeting with Dr. Souza to discuss and resolve Stormwater issues, meeting with Mr. Hermann about snowplowing, approval of Pattenburg Fire Company, reduction of lighting without compromising health and safety issues, scale of architectural and approval of any and all outside agencies.

Mr. Kirkpatrick made a motion to grant Final Site Plan approval, subject to conditions as set forth above. Mrs. Nargi seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mrs. Nargi, Mr. Mazza, Mr. Martin, Mr. Walchuk,
Mr. Scott

Witte: Seven Springs Farm: Block 29, Lot 10 & Block 30, Lot 7, Perryville Road: Barn: Atty. Gary Hall, representing Arnold Witte, gave a brief overview of the proposal to construct a horse barn and riding arena. Mr. Scott asked Mr. Hintz about Mr. Ferriero's letter which mentioned the proposal to construct a caretaker's dwelling. Mr. Hall addressed the matter. He said the Farmland Preservation Easement allows for a structure of that nature. Atty. Hall said the County Agricultural Board would be addressing that issue. Mrs. Nargi voiced concerns about the County Board's authority in such matters. She wanted the Board attorney to clarify the role of the Township. Mrs. Nargi said Township residents have complained about barns that been constructed. Atty. Anderson said there is the general question of the Board's ability to control agricultural development and the specific question has to do with a second principal use. Mr. Scott said the Board requires that notices must be sent to adjoining property owners. The Board has been concerned about their authority in such matters. Mayor Mazza voiced a concern about the septic system. Atty. Hall said a building permit would be required and at that time the septic issue would be addressed.

Atty. Hall asked Mr. Witte to give an overview of the barn application. Mr. Scott suggested that Mr. Witte present information on the barn. The variance issue would be addressed at another meeting. Atty. Hall was in agreement with Mr. Scott's suggestion. Arnold Witte apprised the Board of his proposal to construct a horse facility that will consist of 24 stalls, an arena and storage for horse activities. Mr. Witte said he also plans to have 20-30 cows. Hay will be purchased. Mr. Kirkpatrick asked about disposal of waste. Mr. Witte said he is conscious of the environment and would not do anything that was detrimental. Mrs. Nargi asked if there were any DEP regulations about a proposal of this nature. It is believed the proposal would not be of a magnitude that would require DEP compliance. Mr. Walchuk asked about the plan for the northern tract of the property. Mr. Witte said it would be used for agricultural purposes. There is a horse trail that traverses the property and that will be maintained. Mrs. Nargi asked about the existing red barn. Mr. Witte said he proposes maintaining the character of existing buildings. Mr. Scott asked if the training and breeding of the horses is a personal business. Mr. Witte said it is not a commercial enterprise; however, approximately 20-25 days per year will be devoted to horse educational clinics. Mr. Witte emphasized the facility will not be a riding academy. Mr. Ferriero had raised some questions that should be addressed. Mr. Scott asked about Public Notices. They will be provided prior to an action being taken by the Board. Atty. Hall and Mr. Witte were told they would be placed on the October 25, 2007 agenda.

Toll Bros. Lookout Pointe: Block 11, Lot 3: Homeowners re Driveways: Natin Vekaria, 80 Albert Drive, sought guidance on expanding driveways. Four homeowners were present tonight. Mr. Vekaria said the driveways could be expanded in the back or front of the property. Expansion of the driveways would allow for easier access to garages. Mr. Scott said a variance application would be required. The driveways were incorporated into the storm water plan for the entire development. He said engineering costs would be very expensive. Mr. Scott said that the builder could come to the Board to modify the Plan. Mrs. Nargi said there were specific reasons for the configuration of the driveways and Toll Bros. was told that the driveways would not be conforming and prospective homeowners should be informed. Mr. Scott emphasized that the Board does not have jurisdiction to make a decision unless there is a formal application. Richard Roseberry said the Township has a Driveway Ordinance. Any modification to a driveway requires a permit. Plans must be prepared by a Professional Engineer and there are fees. The Township Engineer has the authority to review and approve an application if it meets Ordinance requirements. Mr. Kirkpatrick gave a brief overview of the project. He said it began about 18 years ago and started out with cottage houses. As the project progressed, the size of the footprint of the dwellings increased and covered much of the impervious surface. Atty. Anderson said any application to the Board would have to be specific. The application must state precisely what variance would be sought from the Ordinance.

Mr. Anderson emphasized the importance of adequate information in any Notice Document.

Christopher Kotalic, 65 Albert Drive, asked if the Driveway Ordinance pertained to commercial or residential driveways and if different materials, i.e., gravel, could be used. Mr. Roseberry said the Ordinance pertained primarily to residences and gravel could be used. Mr. Roseberry emphasized the drainage issue. The Stormwater Management facility was designed for what exists at the site. The Ordinance considers gravel to be an impervious surface. Mr. Kotalic mentioned Toll or a group of homeowners obtaining a blanket permit. Mr. Scott said Toll could seek an amendment to their approval. Mr. Kotalic said Toll told homeowners their hands were tied. Toll indicated the Township was unwilling to work with them. Mrs. Nargi strongly disagreed. It was not believed that a group of homeowners could proceed with one application. Each homeowner would have to apply. Atty. Anderson apprised the homeowners on the required procedure.

Quarry Licensing – Red Hills: Block 22, Lots 30, 28 & 18.02: Atty. Anderson apprised the Board of the procedure. The Planning Board would make a recommendation to the Township Committee to approve or deny the License. Red Hills had not submitted a reclamation plan or insurance certification. Mayor Mazza and Committeewoman Nargi would not be able to vote.

Mr. Kirkpatrick made a motion to recommend to the Township Committee that the License be denied, based on significantly important missing information, including insurance and a reclamation plan. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Walchuk, Mr. Martin, Mr. Scott

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Public Comment/Other Discussion: None

Change of November 13, 2007 Workshop: Mr. Walchuk made a motion to cancel the Workshop. Mrs. Nargi seconded the motion.

Vote: All Ayes

Planning Board Members are invited to the October 9, 2007 UTEC meeting to hear Highlands Director Eileen Schwan.

Correspondence: None

Approval of Minutes: Deferred until the October 25, 2007 meeting. Mr. Scott asked secretary to include July 26, 2007 and September 4, 2007 minutes with October 25, 2007 meeting packet.

Mr. Scott announced that Atty. Sutphen will be retiring at the end of the year. Mr. Sutphen indicated that Atty. Anderson would be willing to serve. Mr. Scott felt that the Board has been served well by the Firm. Appointments will be made at the January 2008 Reorganizational Meeting.

Mr. Walchuk asked about the Pilot situation. Atty. Anderson apprised the Board of the procedure to be followed.

Motion to Adjourn: Mr. Walchuk made a motion and it was seconded by Mrs. Nargi.

Vote: Ayes (9:10 p.m.)

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Grace A. Kocher, Secretary